

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

November 30, 2009  
6:00 p.m.

Council Conference Room 1E-113  
Bellevue, Washington

PRESENT: Mayor Degginger, Deputy Mayor Balducci, and Councilmembers Chelminiak, Davidson, Lee<sup>1</sup>, Robertson, and Wallace

ABSENT: None.

1. Swearing in of Councilmembers-elect Jennifer Robertson and Kevin Wallace

Mayor Degginger called the meeting to order at 6:02 p.m.

Mayor Degginger noted the special privilege of witnessing the swearing in of two Councilmembers-elect, and the unusual circumstances of the two unexpired terms. The election was certified on November 24. Under the terms of state law Councilmember-elect Robertson will complete a two-year unexpired term, and Councilmember-elect Wallace will serve the remaining days of a term plus a full term ending in 2013.

Judge Brian Gain officiated over the swearing in of newly-elected Councilmembers Robertson and Wallace. There was a brief photo opportunity to capture the signing of the Oath of Office. Councilmembers Robertson and Wallace took their seats at the dais.

2. Executive Session

At 6:15 p.m., Mayor Degginger announced recess to Executive Session for approximately 20 minutes to address one item of potential litigation.

The meeting resumed at 6:57 p.m., with Mayor Degginger presiding.

Mayor Degginger commented on the tragic loss of four Lakewood Police Officers on Sunday morning, and extended condolences to the families, Lakewood Police Department, and the community. He asked the audience to stand and observe a moment of silence to remember and honor these dedicated public servants.

---

<sup>1</sup> Councilmember Lee arrived at 7:24 p.m.

3. Oral Communications

- (a) Tom Boyson, Stop Knotty Bodies Community Group, thanked the Council for its direction to staff related to code violations at the Knotty Bodies Espresso stand in the Crossroads area. He explained that the group is interested in protecting children and neighborhoods from this type of business in which the employees are wearing lingerie. Mr. Boyson said employees at similar businesses in the region have been encouraged to engage in lewd behavior to earn tips. He expressed concern about the obvious visibility of the employees, noting that strip clubs do not have windows. Mr. Boyson submitted his comments and the group's requested actions in writing. He reviewed the four types of code violations for this business. He observed that the businesses fit the code definition of adult entertainment. Mr. Boyson commented on Land Use Code regulations pertaining to vendor carts, which require such uses to be compatible with the existing and intended character of the subject property and immediate vicinity. He thanked the Council and staff for their work on this issue. He asked the City to revoke the conditional use permits for both Knotty Bodies Espresso and Café Lolita in Lake Hills.
- (b) Tim Hunt, Bellevue Chamber of Commerce, addressed the Council regarding the use of the balance of the Supplemental CIP bond funds totaling \$7.4M. The Chamber's Board of Directors voted overwhelmingly to support using the funds for their original purposes. Mr. Hunt encouraged the Council to move forward with the Mobility and Infrastructure Initiative projects adopted in January 2009. The Chamber believes that these projects are essential to the continued mobility of people, goods, and services. Mr. Hunt commended the Council for its leadership and efforts to find the right balance between future opportunities and economic competitiveness in light of current economic challenges.
- (c) Nathan Rimmer, representing the owners of the Chevron station on Main Street in Old Bellevue, spoke regarding the park and land use plan for the Meydenbauer Bay area. He expressed support for changes to the preferred alternative that preserve more green space and limit hardscape features in the Downtown Park. However, he expressed concerns about the impacts to the Chevron property from current and future development. He asked the City to engage surrounding property owners when drafting land use and zoning language that will potentially impact their properties. Mr. Rimmer said that maintaining access in Old Bellevue via 100<sup>th</sup> Avenue SE and SE Bellevue Place is critical to maintaining property values. Mr. Rimmer indicated that he would provide an exhibit to the Clerk for distribution to the Council.
- (d) Pamela Ebsworth, Meydenbauer Bay Neighbors Association, said the association supports the development of a park in the neighborhood. However, residents are concerned about the Steering Committee's recommendation to close SE 100<sup>th</sup>, which provides access for residents, guests, service people, mail carriers, deliveries, and emergency personnel. She noted that the loop created by Meydenbauer Way and SE 100<sup>th</sup> is a major thoroughfare offering an alternative to the gridlock on Old Main Street. Ms. Ebsworth said that no adequate traffic study has been conducted to show the traffic impacts. She stated that the removal of access via SE 100<sup>th</sup> represents a taking of

property rights and the loss of property values. The association is opposed to the elevated park gateway structure and viewing platform proposed by the Steering Committee.

- (e) Charlie Klinge, legal counsel for the Washington Sensible Shorelines Association (formerly the Bellevue Alliance for Sensible Shorelines), said the organization's members are Bellevue shoreline property owners on Lake Washington and Lake Sammamish. He referred to the Council's Legislative Agenda on page 4-22 of the meeting packet, and asked the Council to delete the item listed as Clarify Shoreline/GMA Regulatory Authority. Mr. Klinge said the association supports City Council review of this issue in more detail in the future. He disagreed with the statement in the written materials indicating that recent court decisions have created confusion about the relationship between Shoreline Management Act and Growth Management Act regulations. Mr. Klinge said the Supreme Court determined that the Shoreline Master Program, and not the City's Critical Areas Ordinance, governs the uses of shoreline properties. He opined that the City is trying to change the law, to the detriment of shoreline property owners. He noted that the Planning Commission is currently working on an update to the Shoreline Master Program.
- (f) Marty Nizlek, Washington Sensible Shorelines Association, spoke regarding the Legislative Agenda item related to the City's Critical Areas Ordinance adopted in 2006. He reported that up to 100 citizens have attended individual Planning Commission meetings on this topic. He encouraged the Council to drop the item from its Legislative Agenda until the Planning Commission's recommendations are presented to the Council.
- (g) Victor Bishop spoke to the proposed Legislative Agenda [Page 4-21]. Regarding express toll lanes on I-405, he encouraged the Council to retain language that seeks to ensure that the implementation of toll lanes does not diminish the capacity or level of service for existing general purpose and HOV lanes. With regard to the Legislative Statement of Policy, Mr. Bishop expressed concern about language that he feels encourages tolling over the gas tax for funding future transportation projects. He distributed information indicating that the gas tax will be a viable revenue source for at least 20 years. He opined that tolling cannot replace gas tax revenues.
- (h) Mike Mueller addressed what he considers to be an immediate safety concern related to adult-themed espresso stands. He commented that the large windows are much like parlor windows in the red light district in Amsterdam, and they create a traffic hazard as a visual distraction. Mr. Mueller encouraged the City to close the espresso stands or to require fences to block visibility from the street. He wondered whether the City could be liable for accidents if it fails to act on this safety issue.

#### 4. Study Session

Mayor Degginger suggested taking the espresso stand issue first in light of the large audience interested in this topic.

(b) Espresso Cart Update

City Manager Steve Sarkozy introduced staff to provide an update on the Knotty Bodies espresso stand issues.

Mike Brennan, Director of Development Services, noted the management brief on page 4-1 of the meeting packet and provided a quick update on the Knotty Bodies espresso business. The City issued a building permit in early November for the espresso stand, which began operating a week ago before the required final inspection. This business opened with drive-through access, which violated a condition of permit approval. Mr. Brennan reviewed the City's enforcement actions against the business including the issuance of a Notice of Civil Violation establishing a hearing date of December 15 regarding the drive-through access prohibition. The business ultimately closed its drive-through access. The City will continue to monitor the property and to address requirements including those pertaining to the sign code and obtaining a business license. Mr. Brennan said the espresso stand is currently a permitted use in the Neighborhood Business zone.

Lori Riordan, City Attorney, stated that staff continues to gather information from other jurisdictions about their dealing with similar espresso stands. She suggested that as the Council considers possible changes to the City's regulatory approach, it is important to remember that the stand is a permitted use. While the City does not legislate public attire, Bellevue does prohibit public nudity, the exposure of certain private areas of the body under the City's lewd conduct ordinance, and prostitution. Ms. Riordan explained that the Police Department cannot charge for a misdemeanor that is not committed in its presence, but it will respond to reports from citizens and conduct its own investigations. She noted that some jurisdictions are updating their lewd conduct ordinances to ensure they are appropriate and able to avoid constitutional challenges.

Bellevue's lewd conduct ordinance was last updated in the mid-1990s in conjunction with passage of adult business regulations. These regulations were challenged by owners of strip clubs, and the City prevailed in litigation in 1997 through the State Supreme Court. Ms. Riordan is confident that the current lewd conduct ordinance is adequate to meet legal challenges. However, this does not preclude the consideration of proposed amendments to further assist in preventing lewd conduct. Ms. Riordan assured the Council and the public that the City will do all it can to enforce laws regarding lewd behavior and prostitution.

Dr. Davidson recalled the origin of the adult business ordinance, and that the City had to establish a record regarding certain inappropriate behaviors. He expressed support for continued attention and analysis of the issues, noting that he sees the espresso stands more as adult entertainment than as a food service.

Ms. Riordan acknowledged that any time a local government contemplates the regulation of any type of adult-oriented activity, the governing legislative body must create a record demonstrating specific negative secondary impacts of the particular business or activity that is being regulated.

Deputy Mayor Balducci said she would like to see a full response from staff to the testimony heard by the Council. She appreciates the work of staff, and asked them to continue to aggressively enforce the City's regulations. Ms. Balducci acknowledged that this is a constitutional issue and encouraged the City to focus on all legal options. She observed that no one is disputing the right to adult entertainment. However, the community's concerns are about the public nature of this espresso business, its location, and the context.

Responding to Deputy Mayor Balducci, Ms. Riordan confirmed that staff will continue to work on this issue and will not foreclose any options. She noted that Bellevue has a long tradition of employing innovative approaches to regulatory issues.

Mayor Degginger noted that Bellevue has one of the lowest crime rates in the country, which is not by accident but the result of deliberate actions.

Joining the meeting, Councilmember Lee commented that Bellevue's quality of life is driven by the values of its residents, City staff, and the City Council. He reiterated the importance of fully evaluating all legal issues and options in dealing with business regulations.

(a) Council Business and New Initiatives

Councilmember Lee welcomed Councilmembers Robertson and Wallace to the Council.

Mayor Degginger attended a meeting of the Eastside members of the Sound Transit Board in which light rail alignments were discussed.

Councilmember Chelminiak reported that he and the Mayor attended the opening of the NE 10<sup>th</sup> Street overpass, which provides an important connection to the medical institution district and is an example of regional cooperation and investment.

(c) Regional Issues

(1) Update on I-405 HOT (High-occupancy Toll) Lanes Study

Diane Carlson, Director of Intergovernmental Relations, introduced Craig Stone, Toll Division Director; Kim Henry, Eastside Corridor Director; and Denise Cieri, Eastside Corridor Deputy Director from the Washington State Department of Transportation (WSDOT).

Mr. Stone recalled that the state legislature requested the Eastside Corridor Tolling Study to evaluate the concept of express toll lanes on I-405. The legislature directed the study group to confer with the mayors and councils of jurisdictions in the corridor, and to conduct public outreach. The study addresses five options involving I-405 and SR 167, and analyzes both traffic speeds and travel time reliability. All options move more people and vehicles than the current configuration. Mr. Stone noted one policy consideration is whether toll lanes should be free to 2+ carpools or only to 3+ carpools.

Responding to Deputy Mayor Balducci, Mr. Henry noted proposed tolls ranging from \$4 to nearly \$10. He explained that a 3+ carpool policy allows greater opportunity for drivers to buy into the HOT lane system.

Mr. Stone explained that current tolls on SR 167 vary based on traffic volumes, ranging from 50 cents to \$9. The average is \$1.25 for approximately 10 minutes of savings.

Mr. Henry reiterated that the system is based on supply and demand. If the price is too high, the HOT lanes will be empty, but if the price is too low the lanes will be congested and slow moving. Variable tolling essentially allows the users to determine the price for maintaining consistent speeds and optimizes the use of all lanes.

Ms. Cieri provided an overview of public outreach activities.

Mr. Henry reviewed funding and bonding scenarios for the five project options. Additional sensitivity analysis will address the 2+ versus 3+ carpool definition as well as the potential impact of a single toll covering all segments within the corridor.

Responding to Mayor Degginger, Mr. Henry said the toll rates are determined by traffic volumes at any given time. Mr. Henry noted that this is a factor in the higher interest rates on the non-recourse bonds, because there is not a fixed revenue stream as there would be for a toll bridge.

Mayor Degginger highlighted the policy issue raised by non-recourse bonds, which have not been used for this type of project anywhere in this country. He raised a fairness issue as well in terms of how the state's bond funds are to be used. Mr. Degginger noted that tolling on SR 520 could begin by 2011. He expressed concern that tolls are under consideration for the I-405 corridor, yet there does not appear to be a statewide policy regarding the use of tolls and pricing mechanisms.

Mr. Stone responded that the state treasurer is engaged in discussions about statewide tolling and equity, while analyzing the total debt that the State can take on in order to move forward. The state Transportation Commission is working with the state treasurer and legislative committees as well. Mr. Stone concurred that the broader policy context is important.

Deputy Mayor Balducci commented that it would be helpful to be able to review the five options compared to a current conditions slide. She stated that the equity issue is important if a jurisdiction is giving something up in order to implement the HOT lanes. However, if general purpose lane volumes and HOV access remain the same for any segment of the corridor, then the HOT lanes are a benefit in terms of offering an additional option for drivers. Ms. Balducci stated that this concept should be reflected in the Council's interest statement on this issue. She expressed concern about whether toll rates are to be based on performance versus revenue collection. Ms. Balducci cautioned that an emphasis on revenue collection might not produce optimal performance. It could also result in a situation in which users are paying for a regional system, while the State might otherwise have an obligation to pay for some of the improvements.

out of the general statewide gas tax. Ms. Balducci opined that tolling should be set for performance management and should not stray into raising toll rates to maximize revenues.

Mr. Henry responded that both the traffic performance and revenue benefits are important. However from a strict traffic management viewpoint, HOT lanes are an effective tool to maintain traffic flow and trip reliability regardless of the revenue generated.

Ms. Balducci noted that one of the challenges is to balance toll rates in order to optimize traffic flow in both the general purpose and HOT lanes, versus enhancing traffic flow in the HOT lanes at the expense of the other drivers.

Mr. Henry explained that modeling indicates that the freeway becomes more attractive as throughput is enhanced and travel times become more reliable. This redirects traffic that currently diverts to local arterials back to the freeway, and improves performance in freeway general purpose lanes as well.

Councilmember Robertson questioned whether tolls are a revenue generator or a method to fund infrastructure. If a method to fund infrastructure, she suggested that tolls should be implemented in a way that will avoid a net loss to overall capacity for current HOV and general purpose lane users. Also, the tolls should ultimately be phased out, as they were following the original construction of the SR 520 bridge.

Responding to Ms. Robertson, Mr. Henry said Option 4 is a stepping stone toward the current I-405 Master Plan. However, Option 5 is more in line with the overall Master Plan.

Councilmember Robertson opined that the gas tax is a more equitable tool because it is user generated and reflects a regional equity. She questioned whether there are any discussions about tolling I-5 or the new Alaskan Way viaduct.

Mr. Stone said the current assumption is that the viaduct tunnel will be tolled, given that there is a \$400 million gap in funding for this project. Further study is also underway for SR 167, which was not funded from the RTID program in Pierce County between Puyallup and the Port of Tacoma. Also unfunded in the RTID program is a study of SR 509, which would extend HOT lanes from SeaTac Airport to Federal Way. The state has a federal highway grant to study the region's 230 miles of HOV lanes and how they might operate as express/HOT lanes, which includes the I-5 express lane system between Northgate and Downtown Seattle.

Responding to Councilmember Robertson, Mr. Stone said the issue of phasing out tolls as the bonds are paid off is a policy question. The state legislature created a policy bill one year ago that addressed the benefits of tolling for building infrastructure, as was the case with the Tacoma Narrows bridge. Those tolls will be phased out as bonds are repaid. The state legislature does allow tolling for performance as well, as is the case with SR 167. The I-405 tolling study is trying to determine the best strategy for enhancing overall performance, which could include infrastructure investments.

Councilmember Robertson stated that if the money is to be used for congestion pricing and not necessarily to pay off bonds, it would be good move policy-wise to use the toll revenue for investments in the corridor in which it is collected. She commented that she would like to see how the system could make sure that tickets are not sent to people who might appear to be SOV drivers because their vehicles have dark windows but who perhaps are also carrying other passengers. She expressed a preference for maintaining 2+ carpools instead of changing to a 3+ requirement.

Councilmember Wallace thanked staff for the work on the I-405 Master Plan to date. He requested clarification about the express toll lane in all options. Mr. Henry confirmed that the plan anticipates converting the existing HOV lane to an express toll lane. In the options with two express lanes, Mr. Henry said this reflects adding a new lane and not converting a general purpose lane. In further response, Mr. Stone confirmed that the Master Plan established before 2002 contemplates adding two lanes in each direction of I-405. Within this configuration, there could be one or two HOV/HOT lanes.

Councilmember Wallace requested information about the impact to remaining general purpose lanes over time. How does the tolling study compare with the I-405 Master Plan studies in terms of the impact to drivers in general purpose lanes who are not willing to pay tolls? He expressed concern that tolls will not improve traffic flow on arterials as indicated in the presentation. He suspects that drivers will utilize Bellevue Way as a way to avoid I-405 HOT lane tolls. He requested additional study and explanation about this aspect of the plan.

Mr. Henry reviewed the presentation slide that compares the five options, which is attempting to illustrate the differences between what happens with a general purpose capacity improvement versus a managed express toll lane improvement. He noted that Option 5 is closest to the I-405 Master Plan in this regard, and further study will be conducted.

Responding to Dr. Davidson, Mr. Stone confirmed that staff has studied similar projects in other jurisdictions and has used this information in formulating traffic projections. He noted that a route between Orange County and Riverside County in California exceeded usage and revenue projections. In this state, the HOT lane program on SR 167 is performing at about 40 percent of estimates. However, Tacoma Narrows Bridge revenues are approximately 10 percent higher than anticipated. Mr. Stone said the I-405 options are considered conservative in terms of usage projections.

Councilmember Lee said he favors the dynamic pricing and the opportunity for people to make choices. He noted the need to clarify from a policy standpoint whether the purpose of tolling is congestion management or revenue generation. If revenue generation, he would like to see examples comparing tolling with alternate funding mechanisms.

Responding to Mayor Degginger, Mr. Henry reviewed Option 2, which involves a two-lane HOV/HOT system between SR 520 and SR 522, and a single-lane system north of SR 522. From Bellevue south, this option involves the conversion of the HOV lane into a HOT lane. The lanes would operate similar to the electronic system on Highway 167 with controlled entrance



points. Mr. Henry said the City of Renton does not favor Option 2 due to concerns about exacerbating the current bottleneck at I-405 and Highway 167. The City of Renton prefers Option 3, while other jurisdictions appear to be focusing on Option 4. Mr. Henry acknowledged that Option 2 provides little capital improvements from Bellevue to the south end.

Councilmember Lee noted the substantial cost of Option 5 and questioned its viability. Mr. Henry said Options 1 through 4 have been studied the most to date. As Option 5 is studied more, Mr. Henry suspects that the final alternative could be something between Options 4 and 5. Mr. Stone reiterated that Option 5 gets closer to the full I-405 Master Plan concept.

WSDOT staff confirmed that they will provide copies of the presentation and comparisons of the options to existing conditions.

## (2) Legislative Status Report

Diane Carlson, Director of Intergovernmental Relations, reviewed the second draft of the 2010 State Legislative Agenda and Statement of Policy. She highlighted the addition of an item to the Legislative Agenda reflecting Bellevue's opposition to any actions to redirect state-shared revenues currently being provided to cities. A second addition to the Legislative Agenda is the business and occupation tax authority item which has been part of the Statement of Policy for some time. Bellevue opposes legislation that would reduce municipal B&O taxing authority.

Ms. Carlson noted the proposed additional bullet points related to the authorization of express toll lanes on I-405.

Councilmember Wallace suggested a statement regarding the potential impacts of tolling to Bellevue streets. He is concerned that drivers will take alternate routes through City streets to avoid tolls where possible.

Concurring with this concern, Deputy Mayor Balducci said it would be helpful to see how each option affects traffic on surface streets.

Councilmember Robertson asked to retain the language about ensuring that the implementation of I-405 express toll lanes does not diminish the capacity or level of service for existing general purpose or HOV lanes. She would also like to see policy language that supports using toll revenues for improvements within the corridor in which they were collected.

Councilmember Chelminiak agreed with the suggested additions.

Mayor Degginger noted that the Council does not support non-recourse bond financing for I-405 HOT lanes.

Deputy Mayor Balducci suggested adding language to express the concern that tolling revenue should not replace the State's obligation to fund road projects in Puget Sound. While there are good reasons to raise local revenue for certain projects, she said it would not be fair to require

that Bellevue and Puget Sound residents fund road projects while projects in other areas of the state are funded by the gas tax.

Moving on, Ms. Carlson noted the item regarding local transportation funding flexibility which provides local option street utility funding authority. Mike Doubleday, lobbyist, said this item is a high priority for the Association of Washington Cities and a number of other cities around the state.

Ms. Balducci observed that the AWC's support of this item is consistent with its tradition of retaining and expanding the range of tools available to cities. She noted that Bellevue would not be required to utilize the authority.

Councilmember Davidson is not opposed to granting this authority to local governments. However, he does not envision Bellevue using the authority in the near future and it is therefore not a high priority for the legislative agenda. Mayor Degginger concurred. Ms. Carlson said she will move the item back to the broader Statement of Policy.

Regarding the stormwater funding item, Mayor Degginger said he has serious reservations about the appropriateness of the proposed use of these revenues. He suggested that a tax on petroleum products should be used for transportation funding. He questioned the logic of using such revenues for implementing clean water standards.

Councilmember Chelminiak concurred and said he does not support this legislative item.

Mr. Lee concurred as well, noting his general opposition to tax increases.

Mr. Doubleday commented that the bill is moving quickly through the House. He is not sure what will happen in the Senate, but he does not envision there will be an extensive effort to identify alternate tax sources.

Councilmember Wallace expressed concern that federal stormwater regulations create a burden for local governments, affordable housing, and growth in general. He noted the need for state and federal assistance to comply with the standards and to avoid negative impacts to future development.

Responding to Dr. Davidson, Ms. Carlson said the Statement of Policy contains language in support of additional funding assistance to implement federal NPDES requirements.

Mayor Degginger asked Mr. Doubleday to keep the Council and staff updated on the proposed legislation.

Ms. Carlson noted comments during Oral Communications regarding recent court decisions that have created confusion over the relationship between the Shoreline Management Act and the Growth Management Act. Bellevue supports legislation to clarify and ensure that critical areas ordinances apply until shoreline programs are updated by local governments.

Responding to Deputy Mayor Balducci, Ms. Carlson said the City Attorney's Office will provide further analysis of this issue.

Dr. Davidson stated his understanding that there is disagreement about whether the old shoreline regulations or the more recent critical areas ordinances are to be applied until the new shoreline regulations are adopted and implemented.

Mr. Wallace stated that this is an issue of fundamental fairness and that the Critical Areas Ordinance did not address shorelines. His understanding is that the proposed bill is asking the state legislature to overrule the court case that said shorelines are shorelines, and to allow jurisdictions to substitute critical areas for shorelines despite the Court's finding that the two are not the same.

Councilmember Chelminiak suggested monitoring this legislative initiative to better understand its implications before the Council expresses support for a particular course of action.

Mayor Degginger requested an analysis from the City Attorney's Office on this issue.

Turning to the Legislative Statement of Policy, Ms. Carlson reviewed suggested changes including restoring a statement of support for the legislature to ensure that the gas tax keeps pace with inflation. Mayor Degginger suggested adding a statement encouraging that tolling and pricing be part of an overall statewide strategy.

Councilmember Robertson expressed support for increasing penalties for DUI and identity theft violations. Mr. Doubleday stated that it is unlikely these issues will be addressed this year due to budget constraints. Mayor Degginger asked staff to provide information on DUI and identity theft laws for future reference.

At 9:19 p.m., Mayor Degginger declared a short break. The meeting resumed at 9:30 p.m.

(d) Mid-Biennium Budget Update

Finance Director Jan Hawn explained that the purpose of tonight's discussion is to follow up to questions raised by the Council during the previous week's meeting. She stated that a mid-biennium budget review is required by state law, as is the public hearing that was held the previous week.

Ms. Hawn referred the Council to page 4-64 of the meeting packet for a list of potential projects to be funded through the Supplemental Capital Investment Program (CIP). These alternatives are consistent with the original intent to use Supplemental CIP dollars for neighborhood and Downtown Implementation Plan (DIP) projects.

Dr. Davidson suggested reallocating the \$7.4 million in the Supplemental CIP Plan toward the Mobility and Infrastructure Initiative Financing Plan, and to thereby provide some relief to the use of the property tax.

Ms. Hawn clarified that some of the project options are related to the Mobility and Infrastructure Initiative.

Responding to Dr. Davidson, Ms. Hawn said the adopted 2009 three-percent property tax levy and the proposed 2010 three-percent property tax levy together net approximately \$21 million in bonds. She confirmed that it would be possible to use the \$7.4 million in Supplemental CIP funds to contribute to the Mobility and Infrastructure Initiative financing plan and to reduce the 2010 property tax levy.

Councilmember Chelminiak expressed concern about redirecting funds away from their original intended purpose. He noted that water and wastewater utility rates are increasing by approximately \$84 per year, and a water utility tax of \$4.25 per household is anticipated. The 2010 three-percent property tax increase represents an average cost of \$17 per year for Bellevue households. Mr. Chelminiak said he favors continuing the course with capital investments, considering a slight reduction in utility taxes, and reviewing the use of reserves. He recommended a thorough review next year of all taxes, their rates, and their intended purposes.

Councilmember Lee agreed it would be appropriate to discuss reserves next year. He expressed concern about the impact of utility rates on retirees.

Deputy Mayor Balducci referred to page 4-70 of the meeting packet and reviewed the history of the Supplemental CIP Plan. The original allocation of \$67.6 million was reduced by the Council to \$14 million, of which \$4 million was directed toward neighborhood improvements and \$10 million was allocated to Downtown Implementation Plan (DIP) projects. To date \$3.5 million was spent on neighborhood investments, and \$3.1 million was spent on DIP projects. Ms. Balducci said there is justification for identifying projects that meet the intent of the original Supplemental CIP Plan. She feels it is important that the Council do what it said it was going to do.

Mayor Degginger reviewed the process by which the Council identified key projects for the Supplemental CIP Plan and Mobility and Infrastructure Initiative Plan. Projects were selected based on their ability to address critical issues, especially transportation demands, in the implementation of the Bel-Red Corridor and Downtown plans. Mr. Degginger said it is important for the City to follow through on its infrastructure commitments. In January 2009, the Council voted unanimously to adopt the Mobility and Infrastructure Initiative Financing Plan. Mayor Degginger said the Council should mean what it says in terms of delivering projects, and projects can be completed at lower costs under the current bidding climate.

Mayor Degginger recalled the City's history of maintaining a low property tax rate. He noted that the Council gave its unanimous support to both the Supplemental CIP Plan and the Mobility

and Infrastructure Initiative. In terms of the \$7.4 million remaining in the Supplemental CIP Plan, Mayor Degginger feels that the Metro site acquisition must remain a top priority.

Dr. Davidson reiterated that he is sensitive to taxpayers with regard to the property tax.

Mayor Degginger noted a consensus to continue to fund the Mobility and Infrastructure Initiative. The remaining questions relate to how much and from what sources.

Councilmember Chelminiak expressed concern that reducing the capital budget now will be detrimental to projects in the long run. He suggested that a look at General Fund revenues would be more beneficial to the taxpayer, given the growth of utilities rates and fees over the past several years. Mr. Chelminiak recommended that the Council proceed with the three-percent property tax increase in order to fund capital investments that have been promised to the community.

Councilmember Wallace commented on the 10 to 20 percent deflation in property values over the past one to two years. He suggested that the Council consider funding some or all of the priorities through sources other than a property tax increase. He expressed an interest in understanding the impacts on the City's goals of imposing a one or two percent property tax increase versus a three percent increase.

Ms. Hawn said the three percent property tax increase in 2009 combined with a three percent increase in 2010 raises roughly \$21 million. Decreasing the property tax increase by one percent eliminates roughly \$3 million to \$4 million in capital funding.

Mayor Degginger recalled Dr. Davidson's suggestion to use the \$7.4 million toward the Mobility and Infrastructure Initiative, and questioned how this impacts property tax rates and project completion over the long term of the plan. Ms. Hawn said it would be necessary to look at the big picture again. The Mobility and Infrastructure Initiative is a \$299 million package funded with a variety of revenue sources. There is a known shortfall of \$37 million due to lower impact fee rates than were earlier anticipated.

Councilmember Chelminiak reiterated that if the issue is tax relief, he suggests looking at the General Fund and considering the use of reserves. He stated that removing funds from the capital budget is detrimental in the long run, and projects will not be delivered.

Deputy Mayor Balducci referred to page 4-65 of the meeting packet and noted that a three percent property tax increase in 2010 will cost the average Bellevue homeowner \$17 for the year. She understands the message that the City must make do with what it has. However, she is concerned that the loss of revenue will have significant adverse impacts for the City. This is a favorable bidding climate for completing projects, and delays may preclude the ability to deliver projects altogether.

Deputy Mayor Balducci expressed support for continuing to fund the Mobility and Infrastructure Initiative Plan as previously committed. She observed that the discussion is focusing on form over substance given that the property tax impact is roughly \$17 per year per homeowner.

Councilmember Robertson agrees that the Mobility and Infrastructure Initiative is important in terms of quality of life and economic growth. She supports reviewing the Rainy Day Fund, given the current economy's unemployment and foreclosure rates. However, she prefers to not raise the property tax rate at a time when there is zero percent inflation. Ms. Robertson said she is open to considering the alternatives suggested by Councilmembers Davidson and Wallace, along with a taxpayer revenue-neutral solution in the form of a utility tax reduction. She noted that as citizens are tightening their belts, the City would be tightening its belt on General Fund revenue while continuing to provide capital projects that benefit everyone. She supports the Mobility and Infrastructure Initiative and would feel more comfortable about increasing property taxes if utility taxes could be reduced.

→ Deputy Mayor Balducci moved to extend the meeting until 10:30 p.m., and Mayor Degginger seconded the motion.

→ The motion to extend the meeting carried by a vote of 7-0.

Mayor Degginger reviewed the three options articulated tonight. The first is to continue the three percent property tax increase to fund the Mobility and Infrastructure Initiative. The second is to apply the \$7.4 million from the Supplemental CIP Plan to the Mobility and Infrastructure Initiative, in order to adopt a smaller property tax increase. The third is to maintain the three percent property tax increase to fund the Mobility and Infrastructure Initiative, and to reduce utility taxes by a rate to be determined.

Councilmember Davidson expressed concern about an over-reliance on property taxes to support capital projects. He noted that the Mobility and Infrastructure Initiative Plan is also supported by impact fees, growth fees, local improvement district (LID) assessments, and other sources. Dr. Davidson spoke in favor of deferring a decision on the property tax until the Council is able to fully review the capital and operating budgets next year.

Mayor Degginger noted the need to provide direction to staff tonight, in order for staff to be prepared with optional ordinances for adoption at next week's Council meeting.

Councilmember Lee spoke in favor of continuing to explore all revenue options.

Councilmember Chelminiak said he is open to considering a smaller property tax increase. He recalled that the Council voted unanimously to fund the Mobility and Infrastructure Initiative, and he would like to stay true to that promise. Mr. Chelminiak noted the recent opening of the NE 10<sup>th</sup> Street overpass, which is a product of the City's proactive planning and financing, including the ability to obtain significant regional funding. He reiterated that the 2010 three-percent property tax increase represents \$17 per year for the average homeowner. Mr.

Chelminiak again suggested that a more effective way to benefit the taxpayer is to adjust utility taxes, which are part of the General Fund or operating budget.

Responding to Mayor Degginger, Mr. Sarkozy said staff will provide additional information before next week's meeting. He noted that the proposal to reduce utility taxes introduces a new factor in the decision process and will require staff analysis. Mr. Sarkozy reminded the Council that the General Fund has been reduced by approximately \$17 million over the biennium budget. He stated that the Rainy Day Fund contains reserve funds that can be used. However, this balance helps the City secure a strong credit rating.

Councilmember Wallace requested clarification regarding the status of the downtown fire station project (CIP Project PS-61). He questioned whether there are remaining funds to move forward with design next year.

Moving on, Utilities Director Denny Vidmar provided a brief presentation about the use of water utility tax and water utility rate collections to address fire flow capacity costs. In October 2008, the Washington State Supreme Court ruled that the provision of water for fire suppression is a general government function that cannot be funded through water rates. As a result, the cost of fire flow capacity must be removed from the water utility rate and shifted to the General Fund. The estimated cost of providing fire flow capacity within the city limits in 2010 is \$1.7 million.

Mr. Vidmar reviewed staff's recommended approach to reduce water rates and increase the utility tax rate in order to provide the least impact to customers. As a result, customers will experience an increase or decrease of a few cents in their bills. Staff will periodically review the cost of providing fire flow capacity to avoid the over- or under-collection of utility tax revenue.

Responding to Councilmember Davidson, Mr. Vidmar explained that fire flow capacity costs are determined by a number of factors including maintenance costs and capital investments. Some of the investments are provided by the City, and some are provided by developers. The City will update a cost of service analysis with each budget cycle and adjust the tax rate as needed.

Councilmember Chelminiak expressed concern that over time water rates will increase and utility tax collections will also increase. He noted the need to discuss this issue in greater detail next year.

Ms. Balducci concurred, and noted the need for transparency in ensuring that citizens understand that the money is being used in the same manner as before but the funding streams have been modified. Responding to Deputy Mayor Balducci, Mr. Sarkozy agreed that the Council should adopt a formal financial policy regarding this issue.

Mayor Degginger noted a Council consensus to proceed with staff's recommended approach.

## 5. Executive Session

### (a) Personnel Matter

Given the late hour, Mayor Degginger announced that the Executive Session item will be moved to the following week.

At 10:30 p.m., Mayor Degginger declared the meeting adjourned.

Myrna L. Basich  
City Clerk

kaw